

STATE OF CONNECTICUT
STATE ELECTIONS ENFORCEMENT COMMISSION

In the Matter of a Complaint by
Paul Fressola, Stratford

File No. 2009-120

FINDINGS AND CONCLUSIONS

Complainant Paul Fressola brought this complaint pursuant to General Statutes § 9-7b alleging that James Miron, mayor of the Town of Stratford, had used his public office to promote his candidacy. Specifically, Fressola alleged that Miron, then incumbent first selectman of Stratford, had hosted a “press conference” to discuss public safety, when in fact the purpose of the meeting was to promote his own candidacy and denigrate the candidacy of his opponent.

After the investigation of the Complainant’s allegations, the State Elections Enforcement Commission makes the following findings and conclusions:

1. The complainant alleged that on October 28, 2009, then-Mayor James Miron invited the town’s public safety officials and staff to a press conference ostensibly to discuss public safety. At the press conference, according to the complainant, Miron discussed, among other topics, his belief that his opponent in the mayoral race, then-Sentator John Harkins, had earned the endorsements of the town’s fire and police unions through a “back-door deal.”
2. Complainant lodged his complaint with the Commission, based on his belief that Miron had used public funds to promote his candidacy in violation of General Statutes § 9-610 (d).
3. General Statutes § 9-610 (d) comprises two different prohibitions on the use of public funds to promote the candidacy of a public official. First, § 9-610 (d) (1) prevents an incumbent within the three months preceding an election from using public funds “to mail or print flyers or other promotional materials” that are intended to promote the candidacy of the incumbent. General Statutes § 9-610 (d) (1). Second, § 9-610 (d) (2) bans any individual from authorizing the use of public funds during the 12-months preceding an election for any promotional campaign or advertisement that “features the name, face or voice of a candidate for public office” or promotes the nomination or election of a candidate.
4. This case, however, touches on alleged actions that are outside of the ambit of the prohibitions of § 9-610 (d) (1) and (2).
5. Section 9-610 (d) (1) prohibits an incumbent from using public funds to pay for the mailing or printing of flyers or other promotional materials. In this instance, the incumbent mayor purportedly used public funds to pay for printing of a press release that he distributed at the

October 29 press conference. The press release was printed on paper that had the "Town of Stratford" seal at the top.

6. According to the Commission's investigation, Miron's candidate committee did not pay for the printing of the press release.
7. The Commission has applied a two-pronged test for determining whether a communication violates Connecticut General Statutes §9-610 (d) (1). A communication is deemed to violate §9-610 (d) (1) if it (1) expressly advocates the candidate's reelection or (2) is so laudatory as to implicitly advocate such reelection. *See* Complaint of Karen Mulcahy, Waterbury, File No. 2005-292A & B; Complaint of Ann Piscottano, New Haven, File No. 97-221; Complaint of Joseph Travagliano, East Haven, File No. 91-170; and Complaint of Peter Torrano, Norwalk, File No. 99-214.
8. The press release at issue expressly advocates for neither the reelection of the Respondent nor the defeat of Respondent's opponent in the election. Therefore, the Commission must determine if the press release appears so laudatory as to advocate implicitly for Respondent's re-election. In making this determination, the Commission must consider the consistency of the language of the communication in relationship to its governmental purpose. In spite of its governmental purpose, such communication will be deemed to violate §9-610 (d), if it makes reference to any of the following:
 - (1) the candidacy or party affiliation of any elected official;
 - (2) the record of any elected official; or
 - (3) a solicitation for contributions or other support for any official's campaign for re-election, or promoting the support of any other candidate, political committee or political party.
9. The press release presents the administration's actions to promote public safety. The release does not mention the Respondent's party affiliation and does not solicit contributions or other support for his reelection.
10. The press release lists many accomplishments that the town had achieved under Respondent's leadership. It does not, however, present a narrative or language that affiliates these accomplishments with the Respondent's efforts, but, coupled with the presentation that the Respondent made to members of the press, one could argue that the press release was part of a presentation to promote the Respondent's reelection.
11. Standing alone, however, the press release identified in the complaint fails to meet the Commission's two pronged test for determining advocacy under General Statutes §9-610 (d) (1) in that it neither expressly advocates Respondent's reelection, nor is it alone "so

laudatory" of his record as incumbent to implicitly advocate his reelection because it neither mentions the Respondent's candidacy or party affiliation specifically nor attaches his name to the achievements outlined in the release.

12. Respondent Miron's actions did not constitute a promotional campaign or advertisement that would be covered under § 9-610 (d) (2).
13. Because the language of § 9-610 (d) lays out very specific, discrete circumstances that will violate its terms, the Commission cannot find that the Respondent's actions here violated the statutory prohibitions against use of public funds.

ORDER

The following Order is recommended on the basis of the aforementioned findings:

That the matter be dismissed.

Adopted this 15th day of February of 2012 at Hartford, Connecticut.



Stephen F. Cashman
By Order of the Commission